



POLICE DEPARTMENT

February 28, 2023

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Matthew Puleo :

Tax Registry No. 965429 :

109 Precinct :

Case No.

2020-22510

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At:

Police Headquarters
One Police Plaza
New York, NY 10038

Before:

Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent:

John Arlia, Esq.
Wenger & Arlia, Esqs. LLP
20 Vesey Street - Suite 210
New York, NY 10007

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Police Officer Matthew Puleo, while assigned to the 109 Precinct, while on-duty, in Queens County, on or about March 2, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer wrongfully recreated the events leading up to the recovery of a firearm.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

2. Police Officer Matthew Puleo, while assigned to the 109 Precinct, while on-duty, in Queens County, on or about March 1, 2019, did fail and neglect to activate his body-worn camera as required for conducting a vehicle search.

P.G. 212-123, Page 2, Paragraph 4(f)

USE OF BODY-WORN
CAMERAS

3. Police Officer Matthew Puleo, while assigned to the 109 Precinct, while on-duty, in Queens County, on or about and between April 8, 2019 and April 18, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer failed and neglected to inform the Queens District Attorney's Office during two (2) separate meetings that the body-worn camera footage of the firearm recovery was a re-enactment. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on January 27, 2023. Respondent, through his counsel, entered a plea of Guilty to the subject charges, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, I recommend that Respondent forfeit thirty (30) vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

Following the arrest of an individual for driving with a suspended license on March 1, 2019, in Queens County, Respondent and his partner, Police Officer Kevin Martin, returned to the stationhouse in order to process the arrest. A search of the arrestee led to the recovery of narcotics, which resulted in an additional arrest charge. The arrestee's automobile also was brought to the command for safekeeping and for an inventory search of its contents. (Tr. 7)

Officer Martin, who was the arresting officer, searched the vehicle, with his Body-Worn Camera ("BWC") activated, but no contraband was recovered. Respondent testified that he was about five minutes away from the end of his tour when his partner asked him to help remove items from the car to voucher for safekeeping. At that time, Respondent's BWC already was docked and being charged, so he did not record the removal of the items from the vehicle, nor did Officer Martin. As they were taking items out of the car, Officer Martin announced that he had found a firearm inside a sneaker in the trunk. There is no suggestion that Officer Martin planted the gun. (Tr. 8-9, 14, 20-21, 33-34)

Respondent testified that he and Officer Martin came to a "collective agreement" that they would each retrieve their BWC and re-enact Officer Martin's recovery of the firearm so that it could be recorded; the officers proceeded to do just that. Respondent, who at the time of the incident was a rookie officer with about seven months of experience on patrol, conceded that he made a mistake in following the lead of his more experienced partner, who had approximately 13 years on the job. Respondent testified that he now realizes it was a "terrible idea," and that the officers should have just "owned up" to their failure to record, in real-time, the removal of the items from the car, and accepted a Command Discipline. (Tr. 21-22, 31-32, 34-35)

Since Officer Martin was the arresting officer, he, alone, met with the District Attorney's office to have criminal charges drawn up against the arrestee. The parties are in agreement that Officer Martin did not inform the ADA about the video re-enactment. Respondent met with an ADA on two separate occasions in April: the first time, Respondent merely provided a copy of his activity log, and on the second occasion, he was given paperwork to retrieve the sneaker from the property clerk. Respondent testified that at neither of these meetings did he discuss the facts of the case with the ADA, and so he did not mention anything about the re-enactment. At trial, he acknowledged that in hindsight, he should have told the ADA about the re-enactment on those occasions. (Tr. 23-26, 36-38)

On November 14, 2019, Respondent met with a different ADA who was handling the case. The ADA asked him about a discrepancy between the time of recovery of the firearm listed in the complaint and the time stamped on the video. Respondent testified that he informed the ADA that the video was merely a re-enactment, and the actual recovery of the firearm by Officer Martin had occurred minutes earlier. He was surprised that this information appeared to catch the ADA off-guard, since Respondent had erroneously assumed his partner already had explained to the ADA what had occurred. (Tr. 10-11, 26-27, 39-41)

After learning of the re-enactment, the ADA dismissed the weapons charge against the arrestee. Respondent cooperated with the Department Advocate's Office in its investigation, leading to a resolution of the disciplinary case against Officer Martin. Respondent testified that he has learned from this incident, which has weighed on him for the past four years. At the same time, he has continued to be a hard-working officer, and has been involved with seven gun arrests since the incident. (Tr. 15, 18, 27-30)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on January 10, 2018, has pleaded guilty to failing to activate his BWC during the vehicle search, wrongfully recreating the recovery of the firearm in order to record it, and failing to inform the Queens ADA on two separate occasions. The Department Advocate recommends that Respondent forfeit 30 vacation days, and be placed on one-year dismissal probation, to cover the totality of his misconduct. The Advocate notes that the Disciplinary Guidelines do not squarely address the more serious charges in this case, but that Respondent's actions were egregious, warranting the imposition of dismissal probation. Counsel for Respondent argues that this was an innocent rookie mistake by Respondent, and that dismissal probation is not appropriate here.

On the one hand, Respondent exercised poor judgment by wrongfully participating in the re-enactment, and not informing the ADA until several months later. Although the recovery of the firearm was legitimate, Respondent and his partner needlessly compromised the case against the arrestee by creating video evidence of the recovery after-the-fact. As a result of their actions, the weapons possession charge against the arrestee was dismissed.

However, it is important to keep in mind that Respondent was only seven months on the job when the incident occurred. His partner, on whom Respondent relied for guidance, had

approximately 13 years of experience. To Respondent's credit, he did not attempt to shift the entire blame onto his partner, acknowledging that it was a joint decision to do the re-enactment, a decision he now understands was wrong.

Additionally, Respondent's first two meetings with the ADA were brief: paperwork was exchanged, but there was no discussion of the case. The first time he sat down to discuss the case in depth with the ADA, Respondent volunteered the information about the re-enactment. He fully acknowledged his wrongdoing, and cooperated with the ADA and Department Advocate in their investigations. At trial, Respondent, who described himself as a third generation officer who is the seventh member of his family with the Department, appeared genuinely distraught on the witness stand when recounting the mistakes he made in this matter.

Respondent has no disciplinary history, and has received exceptional annual performance evaluations in each of the past two years. Indeed, almost four years have elapsed since the date of this incident, and Respondent has continued to perform his job well as an active police officer. Under these specific circumstances, to now impose a period of dismissal probation would be unnecessary. A forfeiture of 30 vacation days constitutes a significant penalty, which will hopefully serve as a deterrent to future misconduct, while also reinforcing the importance of compliance with Patrol Guide procedures in the vouchering of arrest evidence.

Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent forfeit thirty (30) vacation days.

Respectfully submitted,

APPROVED

JUL 10 2023
Edward A. Caban
EDWARD A. CABAN
ACTING POLICE COMMISSIONER



Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER MATTHEW PULEO
TAX REGISTRY NO. 965429
DISCIPLINARY CASE NO. 2020-22510

Respondent was appointed to the Department on January 10, 2018. On his two most recent annual performance evaluations, he received ratings of "Exceptional" in 2021 and 2022. Respondent has been awarded nine medals for Excellent Police Duty and two medals for Meritorious Police Duty.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials